

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 661

Introduced by Assembly Member Plescia
(Principal coauthor: Assembly Member Walters)

February 17, 2005

An act to amend ~~Section 17010 of the Revenue and Taxation Code, relating to taxation~~ Sections 17072, 17215, and 19184 of, and to add Sections 17138.5, 17138.6, and 17216 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 661, as amended, Plescia. ~~Personal income tax: taxable year~~
Income Tax: health savings account.

The Personal Income Tax Law authorizes various deductions in computing income that is subject to tax under that law.

This bill would allow a deduction in connection with health savings accounts in conformity with recently enacted federal law. In general, the deduction would be an amount equal to the aggregate amount paid in cash during the taxable year by or on behalf of an eligible individual, as defined, to a health savings account of that individual, as provided. This bill would also provide related conformity to that federal law with respect to treatment of the account as a tax-exempt trust, the allowance of rollovers from Archer medical savings accounts to a health savings account, and penalties in connection therewith.

This bill would take effect immediately as a tax levy.

~~The Personal Income Tax Law imposes taxes on taxable income and, among other things, defines a taxable year for purposes of that law.~~

~~This bill would make a technical, nonsubstantive change to that definition.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 17010 of the Revenue and Taxation~~
2 ~~Code is amended to read:~~

3 ~~SECTION 1. Section 17072 of the Revenue and Taxation~~
4 ~~Code is amended to read:~~

5 17072. (a) Section 62 of the Internal Revenue Code, relating
6 to adjusted gross income defined, applies, except as otherwise
7 provided.

8 (b) The deduction allowed by Section 17204, relating to
9 interest on education loans, is allowed in computing adjusted
10 gross income.

11 (c) ~~(1) The deductions allowed in computing adjusted gross~~
12 ~~income include the deductions allowed by Section 162 of the~~
13 ~~Internal Revenue Code, as modified by Section 17202.5,~~
14 ~~determined under Section 62(a)(2)(E) of the Internal Revenue~~
15 ~~Code, as added by the Military Family Tax Relief Act of 2003~~
16 ~~(Public Law 108-121).~~

17 ~~(2) The amendments made to this section by the act adding~~
18 ~~this subdivision shall apply to amounts paid or incurred in~~
19 ~~taxable years beginning after December 31, 2002. The deduction~~
20 ~~allowed by Section 17216, relating to health savings accounts, is~~
21 ~~allowed in computing adjusted gross income.~~

22 (d) *The amendments made to this section by the act adding*
23 *this subdivision shall apply only to each taxable year beginning*
24 *on or after January 1, 2006.*

25 SEC. 2. *Section 17138.5 is added to the Revenue and*
26 *Taxation Code, to read:*

27 17138.5. *For each taxable year beginning on or after*
28 *January 1, 2006, Section 106 of the Internal Revenue Code, as*
29 *amended by Section 1201 of the Medicare Prescription Drug,*
30 *Improvement, and Modernization Act of 2003 (Public Law*
31 *108-173), relating to health savings accounts, shall apply, except*
32 *as otherwise provided.*

1 *SEC. 3. Section 17138.6 is added to the Revenue and*
2 *Taxation Code, to read:*

3 *17138.6. For each taxable year beginning on or after*
4 *January 1, 2006, Section 125 of the Internal Revenue Code, as*
5 *amended by Section 1201 of the Medicare Prescription Drug,*
6 *Improvement, and Modernization Act of 2003 (Public Law*
7 *108-173), relating to health savings accounts, shall apply, except*
8 *as otherwise provided.*

9 *SEC. 4. Section 17215 of the Revenue and Taxation Code is*
10 *amended to read:*

11 17215. (a) Section 220(a) of the Internal Revenue Code,
12 relating to deduction allowed, is modified to provide that the
13 amount allowed as a deduction shall be an amount equal to the
14 amount allowed to that individual as a deduction under Section
15 220 of the Internal Revenue Code, relating to medical savings
16 accounts, on the federal income tax return filed for the same
17 taxable year by that individual.

18 (b) Section 220(f)(4) of the Internal Revenue Code, relating to
19 additional tax on distributions not used for qualified medical
20 expenses, is modified by substituting “10 percent” in lieu of “15
21 percent.”

22 (c) Section 220(f)(5) of the Internal Revenue Code, as
23 amended by Section 1201(c) of the Medicare Prescription Drug,
24 Improvement, and Modernization Act of 2003 (Public Law
25 108-173), relating to rollovers from Archer MSAs permitted,
26 shall apply, except as otherwise provided.

27 (d) The amendments made to this section by the act adding
28 this subdivision shall apply only to each taxable year beginning
29 on or after January 1, 2006.

30 *SEC. 5. Section 17216 is added to the Revenue and Taxation*
31 *Code, to read:*

32 17216. For each taxable year beginning on or after January
33 1, 2006, all of the following apply:

34 (a) Section 223 of the Internal Revenue Code, as added by
35 Section 1201 of the Medicare Prescription Drug, Improvement,
36 and Modernization Act of 2003 (Public Law 108-173), relating to
37 health savings accounts, shall apply, except as otherwise
38 provided.

39 (b) Section 223(e)(1) of the Internal Revenue Code, as added
40 by Section 1201 of the Medicare Prescription Drug,

1 *Improvement, and Modernization Act of 2003 (Public Law*
2 *108-173), shall be modified by substituting the phrase “Section*
3 *17651” for the phrase “Section 511 (relating to imposition of tax*
4 *of unrelated business income of charitable, etc., organizations),”*
5 *contained therein.*

6 *(c) Section 223(f)(4)(A) of the Internal Revenue Code, as*
7 *added by Section 1201 of the Medicare Prescription Drug,*
8 *Improvement, and Modernization Act of 2003 (Public Law*
9 *108-173), shall be modified by substituting “2½ percent” for*
10 *“10 percent,” contained therein.*

11 *SEC. 6. Section 19184 of the Revenue and Taxation Code is*
12 *amended to read:*

13 19184. (a) A penalty of fifty dollars (\$50) shall be imposed
14 for each failure, unless it is shown that the failure is due to
15 reasonable cause, by any person required to file who fails to file
16 a report at the time and in the manner required by any of the
17 following provisions:

18 (1) Subdivision (c) of Section 17507, relating to individual
19 retirement accounts.

20 (2) Section 220(h) of the Internal Revenue Code, relating to
21 medical savings accounts for taxable years beginning on or after
22 January 1, 1997.

23 (3) *Section 223(h) of the Internal Revenue Code, as added by*
24 *Section 1201 of the Medicare Prescription Drug, Improvement,*
25 *and Modernization Act of 2003 (Public Law 108-173), relating to*
26 *health savings accounts.*

27 (4) Subdivision (b) of Section 17140.3 or subdivision (b) of
28 Section 23711 relating to qualified tuition programs.

29 ~~(4)–~~

30 (5) Subdivision (e) of Section 23712, relating to education
31 individual retirement accounts.

32 (b) (1) Any individual who:

33 (A) Is required to furnish information under Section 17508 as
34 to the amount designated nondeductible contributions made for
35 any taxable year, and

36 (B) Overstates the amount of those contributions made for that
37 taxable year, shall pay a penalty of one hundred dollars (\$100)
38 for each overstatement unless it is shown that the overstatement
39 is due to reasonable cause.

1 (2) Any individual who fails to file a form required to be filed
2 by the Franchise Tax Board under Section 17508 shall pay a
3 penalty of fifty dollars (\$50) for each failure unless it is shown
4 that the failure is due to reasonable cause.

5 (c) Article 3 (commencing with Section 19031) of this chapter
6 (relating to deficiency assessments) shall not apply in respect of
7 the assessment or collection of any penalty imposed under this
8 section.

9 (d) *The amendments made to this section by the act adding*
10 *this subdivision shall apply only to each taxable year beginning*
11 *on or after January 1, 2006.*

12 SEC. 7. *This act provides for a tax levy within the meaning of*
13 *Article IV of the Constitution and shall go into immediate effect.*

14 ~~17010. "Taxable year" means the calendar year or the fiscal~~
15 ~~year upon the basis of which the taxable income is computed~~
16 ~~under this part. If no fiscal year has been established, "taxable~~
17 ~~year" means the calendar year.~~

18 ~~"Taxable year" means, in the case of a return made for a~~
19 ~~fractional part of a year under this part or under any regulation~~
20 ~~prescribed by the Franchise Tax Board, the period for which the~~
21 ~~return is made.~~